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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
MARVIN EARL WEBB,)
)
Defendant.)

No. 3-06-70636 EDL

~~PROPOSED~~ ORDER AND STIPULATION
(1) RECALLING AND REISSUING
SUMMONS, AND (2) EXCLUDING TIME
FROM OCTOBER 6, 2006 TO FEBRUARY
2, 2007 FROM THE SPEEDY TRIAL ACT
CALCULATION (18 U.S.C. § 3161(h)(8)(A))

On October 3, 2006, based on a criminal complaint presented by Special Agent Tommy Ho, the Hon. Elizabeth D. Laporte issued a summons for the Defendant to appear on November 7, 2006 at 9:30 a.m. The Defendant was served with the summons and complaint at his home in Tennessee on or about October 6, 2006.

The Defendant has health problems that will require him to be hospitalized on November 6, 2006, making it impossible for him to appear in San Francisco on November 7, 2006. Further, counsel for the government and the Defendant are in the process of discussing a pre-indictment resolution of this case. In order to engage in meaningful discussions, counsel for the Defendant will need to review a substantial quantity of documents and electronic discovery that the government intends to provide next week. Counsel for the Defendant does not believe it is in his client's best interests for the government to indict the case within 30 days of the service of the

summons, as required under 18 U.S.C. § 3161(b).

Accordingly, the parties have agreed as follows:

1. The summons for November 7, 2006 should be recalled, and a new summons should be reissued for February 2, 2007.

2. The defendant agrees to an exclusion of time under the Speedy Trial Act. Failure to grant the requested continuance would unreasonably deny both government and defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence, and the need for both sides to investigate the facts of the case and attempt to reach a pre-indictment disposition. Failure to grant the requested continuance would also unreasonably deny the defendant and the government continuity of counsel.

3. Given these circumstances, parties agree and the Court should find that the ends of justice served by excluding the period from October 6, 2006 to February 2, 2007 outweigh the best interest of the public and the defendant in a speedy trial. Id. § 3161(h)(8)(A).

IT IS SO STIPULATED.

DATED: _____

/s/
TRACIE L. BROWN
Assistant United States Attorney

DATED: _____

/s/
DANIEL BLANK
Attorney for MARVIN EARL WEBB

IT IS SO ORDERED.

The summons for the Defendant's appearance on November 7, 2006 is hereby RECALLED. A new summons requiring the Defendant to appear on February 2, 2007 shall issue. Pursuant to the parties' stipulation and for the reasons set forth above, the time from October 6, 2006 to February 2, 2007 shall be excluded from the Speedy Trial Act calculations.

DATED: November 7, 2006

